

## BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the matter of the Commission, on )  
its own motion, seeking to investigate ) Application No. 911-013/PI-96  
collection and remittance of enhanced )  
911 surcharges by prepaid wireless )  
carriers. )

### COMMENTS OF INTERVENOR, CINGULAR WIRELESS, LLC, ON ORDER OPENING DOCKET ENTERED APRIL 19, 2005

Cingular Wireless, LLC ("Cingular"), through counsel, hereby submits its comments to the Nebraska Public Service Commission ("Commission") in response to its Order Opening Docket dated April 19, 2005.

Cingular concurs that the Enhanced Wireless 911 Services Act ("Act") was intended to provide the Commission with the necessary powers to carry out the intent and purposes of the Act. However, Cingular believes that specific aspects of the Commissions Opinion and Findings merit brief comment.

Initially, based on its interpretation of applicable statutes, including Neb. Rev. Stat. §§ 86-457 and 86-459, Cingular believes that wireless service providers are clearly not required to collect and remit Enhanced Wireless 911 Surcharges for prepaid services as this was never contemplated by the statutes noted above. Specifically, §86-457 provides that:

Each wireless carrier who has a subscriber with a billing address in Nebraska shall collect a surcharge of not more than fifty cents per month per access line. The wireless carrier shall add the surcharge to each subscriber's billing statement. The wireless carrier is not liable for any surcharge not paid by a subscriber and is not obligated to take legal action to collect the surcharge. The surcharge shall appear as a separate line-item charge on the subscriber's billing statement and shall be labeled as 'Enhanced Wireless 911 Surcharge' or a reasonable abbreviation of such phrase. (Emphasis added.)

Prepaid subscribers do not receive a billing statement and the statute clearly discusses assessing the E911 surcharge as a line item on the bill. If the Nebraska Legislature had so

intended, then such provisions regarding prepaid services would have been clearly delineated in this section.

Furthermore, even if the Commission were to conclude that wireless service providers should be required to collect and remit such Enhanced Wireless 911 Surcharges for prepaid subscribers, the existing statutes noted above would require amendment by the Nebraska Legislature. For example, §86-459 provides:

The wireless carrier shall report the number of wireless lines served and the number of wireless lines from which it has collected surcharge revenue. The wireless carrier shall maintain surcharge and remittance records for a period of two years after the date of the subscriber's billing statement.  
(Emphasis added)

Therefore, any action prior to such admendment would be premature by the Commission.

Lastly, Cingular supports the Commission's efforts to uphold its responsibilities under the Act and as such appreciates the opportunity to participate in this docket.

Respectfully submitted this 20<sup>th</sup> day of May, 2005

**CINGULAR WIRELESS, LLC**

By \_\_\_\_\_  
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## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he caused the foregoing Comments to be filed by electronic delivery and an original and five (5) paper copies to be filed by hand delivery on this 20<sup>th</sup> day of May, 2005, to the following:

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